



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

AGENDA

Special Meeting of May 21, 1999

9:00 A.M., PUC Building, 1st Floor Hearing Room
242 State Street, Augusta, Maine

OLD BUSINESS

The Christian Civic League of Maine (CCLM): Political Action Committee campaign finance report filings and associated penalty considerations.

STATUS:

At its regular meeting on April 14, 1999, the Commission determined that the CCLM had engaged in conduct that qualified it as a PAC and required the CCLM to register and file campaign finance reports. The CCLM subsequently registered and filed required reports within the prescribed time period. At its meeting on May 10, 1999, the Commission assessed a \$250 penalty for the failure to register as a PAC. The question remaining for consideration at this meeting is whether the Commission should assess a penalty for the late filing of reports pursuant to 21-A MRSA section 1062-A, subsections 2 through 4.

In addition, three questions were presented at the May 10 meeting:

- Did the CCLM recognize an obligation to register as a PAC and consciously decline to do so to avoid the appearance of direct political activity?
- Is the PAC report filed by the CCLM, subsequent to the Commission's April meeting, accurate and complete?
- Was there fraud in the record-keeping or reporting of PAC activities by the CCLM?

ANALYSIS:

Whether the CCLM recognized its obligations previously and consciously declined to register as a PAC for whatever reason would seem to go at this point to whether the Commission should consider mitigating any penalty that may be assessed based on the CCLM's interpretation of the applicable statutes after consultation with the Ethics Commission staff, and the fact that the Commission had not previously interpreted or rendered a decision applying the PAC definition to facts similar to those present in this case.

If the Commission determines that the CCLM consciously acted to avoid its statutory obligations, that determination would support the imposition of a penalty for late filing. However, if the Commission finds that the CCLM did not act consciously to avoid its responsibilities, that determination could support mitigation or waiver of a penalty. The



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Commission might then decide to apply the precedent of January 29, 1999, in the matter of City of South Portland v. Management Research & Development Association, in which case the penalty for late filing was waived.

A separate question the Commission should consider is whether the PAC reports submitted on April 26, 1999, were accurate and complete. If the Commission finds that any of the reports did not "substantially conform" to the statutory reporting requirements, then it may be appropriate to assess a penalty for late filing computed from April 26, 1999, through the date of receipt of an amended report that "substantially conforms" to the reporting requirements. In this regard, the Commission might consider the precedent of December 17, 1997, in the matter of a Commission complaint against the Maine Pulp and Paper Forest Information Program PAC, in which the Commission assessed a \$500 penalty (reduced from an accrued penalty of \$1,213.70) after finding the PAC's substantial nonconformance with the reporting requirements for its failure to disclose a total of \$12,126.28 in in-kind contributions/expenditures in a timely fashion.

Finally, if the Commission determines that the CCLM made a false statement in any required report, that is a criminal matter pursuant to 21-A MRSA 1004(2) and would have to be referred to the Attorney General's Office for prosecution.

STAFF RECOMMENDATION:

The required campaign finance reports for the periods in question were filed by the deadline of April 26, 1999, established for that purpose. The facts presented do not support the conclusion that the CCLM recognized an obligation to register as a PAC and consciously declined to do so. Rather, the facts support the conclusion that the CCLM (along with the Christian Coalition) established two PACs ("Yes for Equal Rights" PAC and the "Ad Hoc Committee for Common Sense" PAC) to fulfill the statutory requirements regarding disclosure of related political activity. The CCLM made in-kind contributions to those PACs. However, the facts also support the conclusion that the CCLM unintentionally became a PAC by legal definition when it directly engaged in conduct that qualified it as a PAC. Having been declared a PAC by the Commission, the CCLM subsequently registered, filed required reports, and immediately terminated its PAC status. A review of the CCLM PAC reports compared to those submitted by "Yes for Equal Rights" PAC and the "Ad Hoc Committee for Common Sense" PAC reveals an apparent discrepancy involving the omission of in-kind contributions totaling \$15,625.57 from the quarterly report due January 15, 1998, a "substantial nonconformance" with the reporting requirements. Based on that omission, and applying the December 1997 precedent of the Maine Pulp and Paper PAC case, a penalty of \$156.26 for each day after April 26, 1999, through May 20, 1999, when an amended report was filed, could apply. Also applying that same precedent, the Commission may consider mitigating that penalty. The facts do not support a finding of an intentional effort to deceive on the part of persons associated with the CCLM, and therefor do not warrant referral to the Attorney General for prosecution.

ADJOURNMENT